

REMARKS

Upon entry of this paper, claims 1, 30, 35, 41, 42, and 44 have been amended, claim 5 was previously canceled, and no claims have been added as new claims. Thus, claims 1-4 and 6-46 are presently pending in this application. No new matter has been added.

Interview Summary

Applicant thanks the Examiner for conducting several brief telephone interviews, including on January 3rd, 11th, 17th, 30th, and February 1st in which Applicant has confirmed to the Examiner the aspects involved with SDH/SONET functionality as claimed in the pending application. Due to the original interpretation of the term “APS”, the requirements of the present claimed invention were not fully realized during the initial examination. With each telephone communication, the Applicant’s representative has elaborated upon what is required to implement true APS functionality in accordance with SDH/SONET as claimed. In an effort to restate the meaning of the originally filed claim set in accordance with the interview discussions, the Examiner has requested that Applicant make some amendments to the independent claims. Accordingly, Applicant and the Examiner have agreed that the claims as provided herein are patentable over the cited references. The Examiner has instructed that additional searching may be required prior to allowance of the pending application.

Claim Rejections – 35 USC § 112

Claims 1, 30, 35, 41, 42, and 44 were rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claims were asserted contain subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor, at the time the application was filed, had possession of the claimed invention.

Specifically, the use of the term “SDH/SONET” was indicated to not have support in the specification. Subsequent telephone interviews with the Examiner have clarified that SDH/SONET relates to a standard (not implemented in Ethernet prior to this invention) as

described throughout the specification, and that details concerning the types of functionality under SDH/SONET are both detailed in the specification (such as at page 2, last paragraph) and are known to those of ordinary skill in the art. Accordingly, Applicant believes that this issue has been addressed by the telephone interviews and by the specification itself. Reconsideration and withdrawal of this rejection is requested.

Claim Rejections – 35 USC § 102

Claims 41, 42, and 44 were rejected under 35 U.S.C. 102(e) as being anticipated by Yip. Upon entry of this Amendment, claims 41, 42, and 44 have been amended to restate the functionality attributed to the “SDH/SONET” terminology as requested by the Examiner. Accordingly, Applicant believes all claims to be patentable over Yip, however, further remarks are provided below.

Specifically, Yip is generally directed to a method to support proprietary protection functionality only in a ring topology network and, based on an inventor’s right to be his/her own lexicographer, labeled it as “APS”. However, Yip’s propriety APS only has a basic ability to recover from a complete failure or fault in a proprietary ring architecture. It does not have the ability to operate outside of its proprietary network. Even from a strict high level functionality perspective, disregarding the actual device of Yip and its proprietary nature, the broadest interpretation of the functionality provided in Yip can be deemed to suggest only a mere subset of the functionality that is required in accordance with SDH/SONET APS. As such, Yip by no means discloses the function or ability to provide linear topology protection switching/bridging/selecting and/or ring topology protection switching/bridging/selecting and/or mesh topology protection switching/bridging/selecting (*see* amended claims 1, 30, 35, 41, 42, and 44). The device described in Yip cannot support SDH/SONET APS functionality by definition, because of its proprietary nature. In accordance with the invention of the pending claims, Applicant has defined a system and method of supporting SDH/SONET APS functionality in linear, ring, and/or mesh topologies, with the ability to perform SDH/SONET APS switching, bridging, and selecting for automatic protection switching functionality in an Ethernet environment. Yip fails to anticipate the claimed system and method.

Furthermore, Yip does not and cannot support standard SDH/SONET APS protection bridging because the SHD/SONET standard and functionality requires the transmission of identical traffic on both the working and protection channels (*see* amended claims 1, 30, 35, 41, 42, and 44), which Yip cannot do (*see also* Specification, page 8, last paragraph). The method described in Yip of blocking and unblocking secondary ports is not the same as the SDH/SONET APS selector/switch (which is different from an Ethernet Switch) because the standard and functionality described requires that the selection be between selecting the better of the two received signals on both the working and the protect channels. Because Yip does not and cannot transmit identical traffic in accordance with SDH/SONET APS, Yip does not and cannot support standard SDH/SONET APS selector.

Reconsideration and withdrawal of this rejection is respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1-4, 6-9, 15-19, 23, 26-28, 30, and 35 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Laber. Claims 10, 11, 34, and 39 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Laber in further view of Lu. Claims 12, 14, 29, 33, and 38 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Laber in further view of Sefidvash. Claims 13, 21, 32, and 37 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Laber in further view of Shi. Claim 22 was rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Laber in further view of Abbott. Claims 20, 31, and 36 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Laber in further view of Lurndal. Claim 24 was rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Laber in further view of Taketomi. Claim 25 was rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Laber in further view of Burnett. Claims 40, 43, and 46 were rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of the admitted prior art. Claim 45 was rejected under 35 U.S.C. 103(a) as being unpatentable over Yip in view of Abbot. Upon entry of this Amendment, all independent claims have been amended to further clarify the functionality provided under the SDH/SONET terminology. Therefore, Applicant believes the pending claims to be allowable over the cited references. However, Applicant provides additional clarifying remarks below.

Applicant respectfully submits that unless a *prima facie* case of unpatentability with respect to known facts is established, applicant is not obliged to proffer any evidence of nonobviousness. To establish a *prima facie* case there must be some suggestion or motivation, either in the prior art or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine multiple reference teachings. There must then be a reasonable expectation of success. Finally, the prior art reference or references (when combined) must teach or suggest all the claimed limitations.

All of the above combinations rely upon Yip, however, none of the references combined with Yip corrects the failure of Yip to disclose, teach, or suggest an APS system that can handle multiple network topologies, including linear, ring, and/or mesh topologies, and do so providing the functionality of SDH/SONET APS in an Ethernet environment. Additionally, none of the references, alone or in combination, teaches or suggests a transmission of identical traffic on both the working and protect channels (*see* amended claims 1, 30, 35, 41, 42, and 44) in an Ethernet environment, as provided in the present claimed invention and in accordance with SDH/SONET APS functionality. Accordingly, neither Yip, nor the combination of Yip with any of the above references results in a disclosure, teaching, or suggestion of all elements of the pending claims after entry of this Amendment. As such, Applicant respectfully requests reconsideration and withdrawal of these rejections.

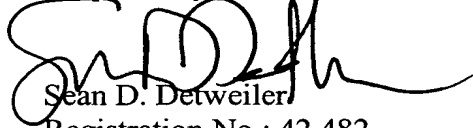
CONCLUSION

In view of the amendments and remarks set forth above, Applicant contends each of the presently pending claims in this application is in immediate condition for allowance.

Accordingly, Applicant respectfully requests the Examiner pass the claims to allowance. If the Examiner deems there are any remaining issues, we invite the Examiner to call the Applicant's Attorney at the telephone number identified below.

Dated: February 2, 2006

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. Detweiler', is written over the printed name.

Sean D. Detweiler

Registration No.: 42,482

LAHIVE & COCKFIELD, LLP

28 State Street

Boston, Massachusetts 02109

(617) 227-7400

(617) 742-4214 (Fax)

Attorney/Agent For Applicant